

Appl. No.: 10/709,404
Amdt. Dated: 12/19/2006
Reply to Office action of: 09/29/2006

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AMENDMENTS TO THE DRAWINGS:

There are no amendments to the drawings being presented here with.

Appl. No.: 10/709,404
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REMARKS/ARGUMENTS

Claims 1 – 17 remain in this application. Claims 1 – 4, 9 – 12, and 17 have been amended to correct minor typographical and grammatical errors as well as to more clearly define the claimed invention.

No new matter has been introduced by these amendments to the specification, and claims.

Claims 4 and 12 were objected to for the following informalities: “each claim, line 2, recites the phrase ‘said apparatuscomprise plastic’; the phrase should read, ‘said apparatus comprises plastic’. By this amendment this informality has been corrected. Therefore this objection is now moot and Applicants request its removal.

Claims 1 – 17 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner states:

In claim 1 and 10, the limitation “a device mounting apparatus suitable for attaching and securing items” in the preamble and the later set forth “storage receptacles, items, and brackets having located thereon at least one prong” in the body render the claim indefinite because it is unclear if Applicant is claiming the triangular mounting unit by itself or whether the “storage receptacles, items and brackets” are being claimed in combination. The following rejections are based on the assumption that Applicant is claiming both the mounting unit with mounting cavities, and the storage receptacles, items, and brackets associated therewith, as they have both been positively recited.

In claims 1 and 10, the limitation “storage receptacles, items and brackets having located thereon at least one prong suitable for inserting into said at least one mounting cavity” renders the claim indefinite because it is unclear how many of these storage receptacles, items, and brackets Applicant is attempting to claim. Furthermore, the claims also recite that “at least one of a desired container, item and bracket” can be secured to the mounting apparatus; this phrase implies that only one of the selected container, item, or bracket is actually being claimed. The following rejections are based on the assumption that Applicant is only claiming one of a container, item, or

Appl. No.: 10/709,404
Amdt. Dated: 12/19/2006
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bracket with at least one prong for mounting to the said cavity.

In claim 3 the limitation "wherein there is a mounting cavity on one face of said triangular mounting unit" renders the claim indefinite because it is unclear how the mounting cavity recited in claim 1 and the mounting cavity now recited in claim 3 are related. In particular, it is unclear whether Applicant is attempting to claim a second mounting cavity on a different face or whether the mounting cavity recited in claims (1 and 3) is the same. The following rejections are based on the assumption that mounting cavities recited in claims 1 and 3 are in fact the same.

In claim 9, the limitation "wherein there is a mounting loop on one face of said triangular unit and a hook on another face" renders the claim indefinite because it is unclear how the mounting loop and hook are related to the mounting cavity of claim 1. In particular it is unclear whether the mounting loop is to be considered to form a mounting cavity. The following rejections are based on the assumption that the mounting cavity is to be formed from interior of the mounting loop.

Applicant respectfully traverses this rejection. By this amendment Claims 1, 3, 9, and 10 have been amended such that they now properly claim the invention. In view of the amendments to claims 1, 3, 9 and 10 this rejection is now moot and Applicant asks that it be removed.

Claims 1 – 2, 6 – 8, 10 and 14 – 16 were rejected under 35 U.S.C. 103(a) as being unpatentable over McElfish et al. (US 4,568,117) in view of Ney et al. (US 5,879,041). Specifically, the Examiner states:

Regarding claims 1 – 2, and 10 – 11 McElfish et al. disclose a device mounting apparatus suitable for attaching and securing items and receptacles having various sizes and shapes in a vehicle comprising in combination: a triangular mounting unit (18) rotatably movable around a center pivot pin (46), said triangular mounting unit being installed in an interior surface (10); a first side surface at 38 complimentary to said interior surface (Figure 1); a mounting cavity (74) on the second side surface; and a third side having a mounting cavity (66). McElfish et al. does not have storage receptacles, items, or brackets with prongs suitable for inserting into the mounting cavity of the

Appl. No.: 10/709,404
Amdt. Dated: 12/19/2006
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triangular mounting unit, thereby allowing secure attachment of at least one of a desired container, item, or bracket in a vehicle. However, Ney et al. teaches an article holder (10), for use in a vehicle cup holder, on which multiple prongs (30 and 22) can be secured in a cup holder mounting cavity (12). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to use the beverage container with prongs of Ney et al. with the device of McElfish et al. in order to hold various receptacles such as larger cups and beverage containers.

Regarding claims 6 and 14, the modified McElfish et al. device discloses the claimed apparatus wherein the apparatus opens (Figure 2) and closes (Figure 1) around a center pivot pin (46).

Regarding claims 7 – 8, and 15 – 16, either of the cavities or prong of the modified McElfish et al. device can be considered to be oriented either horizontally or vertically, depending on how you look at the figures.

Applicant respectfully traverses these rejections. The key to Applicant's invention is providing a device-mounting apparatus that is configured to accept a variety of different mounting brackets that in turn are designed to hold or mount specific items securely within a vehicle interior compartment. Examples being a cell phone saddle for securely holding a cell phone (see Figures 1 and 6), and the cargo net hook loop 13 and the cell phone holder 6 of Figure 7. Furthermore, the claimed invention may be used in a horizontal, vertical, or sloped orientation interchangeably when in the "use" position. Also, the claimed invention does not require special direction of rotation to prevent held articles from falling out of the device, nor spring biased mounting pins and locking devices to operate properly.

A fair reading of the McElfish et al. (US 4,568,117) reference discloses a device having a coin holder and a cup holder located within the triangular body of the device. The reference also teaches that the device must be rotated in specific direction for specific functional use to prevent loss of the items held within the device body cavities. Additionally, because one of the items to be inserted into the device may be a beverage container the device must have a locking system to prevent rotation when such a container is inserted to prevent spillage. This beverage container holding function also mandates that the device be used on a horizontal axis only.

Appl. No.: 10/709,404
Amdt. Dated: 12/19/2006
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There is nothing in the McElfish et al. (US 4,568,117) reference which discloses, teaches or suggests to one skilled in the art how to modify the reference to provide for use in a vertical or sloped orientation or how to modify the interior cavities of the reference to accept a variety of brackets to hold specific items securely, such as for example, cell phones or cargo net hooks. Further, there is no disclosure, teaching, or fair suggestion on how to eliminate the critical elements of the locking means, the rotational wheel means, or the need for specific direction of rotation.

A fair reading of the Ney et al. (US 5,879,041) reference discloses a cup holder insert that may be used to provide for holding beverage containers of sizes smaller than the originally provided beverage container holding cavities in a vehicle passenger compartment. This cup holder insert provides a plurality of retaining finger members to position the cup holder insert in the larger diameter cavity of the vehicle. This reference disclosure requires that the device be used in a horizontal orientation only as it is designed specifically for beverage containers and has no provision to hold any item in a non-horizontal position or to even stay mounted in the vehicle cavity in any non-horizontal position.

There is nothing in the Ney et al. (US 5,879,041) reference which discloses, teaches or suggests to one skilled in the art how to modify the reference to provide different brackets to securely mount various devices such as DVD players for example. There is nothing to suggest on one skilled in the art how to overcome the limitations of the McElfish et al. (US 4,568,117) reference to arrive at Applicants' claimed invention. In fact, without first having knowledge of the claimed invention one skilled in the art would not even have the necessary impetus to combine these references.

Clearly, when viewed in this light the McElfish et al. (US 4,568,117) and Ney et al. (US 5,879,041) references do not disclose, teach, or suggest the use of a device-mounting apparatus capable of mounting specifically designed brackets allowing the securing of specific devices within a vehicle compartment as claimed in Applicants' present invention.

Furthermore, the McElfish et al. (US 4,568,117) reference is not combinable with the Ney et al. (US 5,879,041) reference as the former teaches the use of a triangular device having cavities within said triangular device requiring a locking mechanism and a turning mechanism as well as a specific direction of rotation in operation and the later

Appl. No.: 10/709,404
Amdt. Dated: 12/19/2006
Reply to Office action of: 09/29/2006

teaches the use of an insert to change the diameter of a beverage container holder opening. Even if these two references were combinable they still fail to disclose, teach, or fairly suggest how to provide a device-mounting apparatus capable of mounting specifically designed brackets allowing the securing of specific devices within a vehicle compartment as claimed in Applicants' present invention.

Clearly, when viewed in this light no combination of the McElfish et al. (US 4,568,117) and Ney et al. (US 5,879,041) references disclose, teach, or fairly suggest Applicant's claimed invention.

Claims 3, 9, and 17 were rejected under 35 U.S.C. 103(a) as being unpatentable over McElfish et al. in view of Ney et al. as applied to claims 1 and 10 above, and further in view of Bieck et al. (US 5,839,711). Specifically, the Examiner states:

Regarding claims 3 and 17, the modified McElfish device discloses the invention substantially as claimed but does not have a hook on a face of the triangular unit.

However, Bieck et al. discloses a beverage holder (10) with hook members 20 for securing a beverage in place. Therefore it would have been obvious to one skilled in the art at the time of invention to make the cup holder of McElfish with hook members in order to more securely hold a cup or beverage.

Regarding claim 9, the modified McElfish device discloses the claimed invention wherein hook members (20 of Bieck et al.) are on one face of the triangular unit, and mounting loops (84 Figure 3, also seen at the center of Figure 2) formed from the lip of the coin holder, effectively satisfying the claims.

Applicant respectfully traverses these rejections. The key to Applicant's invention is, as mentioned above, providing a device-mounting apparatus that is configured to accept a variety of different mounting brackets that in turn are designed to hold or mount specific items securely within a vehicle interior compartment. Examples being a cell phone saddle for securely holding a cell phone (see Figures 1 and 6), and the cargo net hook loop 13 and the cell phone holder 6 of Figure 7. Furthermore, the claimed invention may be used in a horizontal, vertical, or sloped orientation interchangeably when in the "use" position. Also, the claimed invention does not require special direction of rotation to prevent held articles from falling out of the device, nor spring biased mounting pins and locking devices to operate properly.

Appl. No.: 10/709,404
Amdt. Dated: 12/19/2006
Reply to Office action of: 09/29/2006

A fair reading of the McElfish et al. (US 4,568,117) reference discloses, as mentioned above, discloses a device having a coin holder and a cup holder located within the triangular body of the device. The reference also teaches that the device must be rotated in specific direction for specific functional use to prevent loss of the items held within the device body cavities. Additionally, because one of the items to be inserted into the device may be a beverage container the device must have a locking system to prevent rotation when such a container is inserted to prevent spillage. This beverage container holding function also mandates that the device be used on a horizontal axis only.

There is nothing in the McElfish et al. (US 4,568,117) reference which discloses, teaches or suggests to one skilled in the art how to modify the reference to provide for use in a vertical or sloped orientation or how to modify the interior cavities of the reference to accept a variety of brackets to hold specific items securely, such as for example, cell phones or cargo net hooks. Further, there is no disclosure, teaching, or fair suggestion on how to eliminate the critical elements of the locking means, the rotational wheel means, or the need for specific direction of rotation.

A fair reading of the Ney et al. (US 5,879,041) reference discloses, as mentioned above, discloses a cup holder insert that may be used to provide for holding beverage containers of sizes smaller than the originally provided beverage container holding cavities in a vehicle passenger compartment. This cup holder insert provides a plurality of retaining finger members to position the cup holder insert in the larger diameter cavity of the vehicle. This reference disclosure requires that the device be used in a horizontal orientation only as it is designed specifically for beverage containers and has no provision to hold any item in a non-horizontal position or to even stay mounted in the vehicle cavity in any non-horizontal position.

There is nothing in the Ney et al. (US 5,879,041) reference which discloses, teaches or suggests to one skilled in the art how to modify the reference to provide different brackets to securely mount various devices such as DVD players for example. There is nothing to suggest on one skilled in the art how to overcome the limitations of the McElfish et al. (US 4,568,117) reference to arrive at Applicants' claimed invention. In fact, without first having knowledge of the claimed invention one skilled in the art would not even have the necessary impetus to combine these references.

Appl. No.: 10/709,404
Amdt. Dated: 12/19/2006
Reply to Office action of: 09/29/2006

A fair reading of the Bieck et al. (US 5,839,711) reference discloses another cup holder insert similar to that of Ney et al. (US 5,879,041) with the addition of spring biased retaining finger members to help secure the beverage container within the cup holder insert thus allowing for different diameter beverage containers to be retained therein. Thus, this reference teaches an alternative method of having adjustable beverage container diameter holding ability in place of the radial flanges of the Ney et al. (US 5,879,041) reference.

There is nothing in the Bieck et al. (US 5,839,711) reference which discloses, teaches or suggests to one skilled in the art how to modify the reference to provide for use in a vertical or sloped orientation or how to modify the interior cavities of the reference to accept a variety of brackets to hold specific items securely, such as for example, cell phones or cargo net hooks. Further, there is no disclosure, teaching, or fair suggestion on how to eliminate the critical elements of the locking means, the rotational wheel means, or the need for specific direction of rotation. This modification of the Ney et al. (5,879,041) reference does not provide for an alternative sizing function of the beverage holder insert does not add anything to provide the required impetus to modify either McElfish et al. (US 4,568,117) or Ney et al. (US 5,879,041) to arrive at Applicants' claimed invention.

Clearly, when viewed in this light the McElfish et al. (US 4,568,117), Ney et al. (US 5,879,041), and Bieck et al. (US 5,839,711) references do not disclose, teach, or suggest the use of a triangular device having cavities within said triangular device requiring a locking mechanism and a turning mechanism as well as a specific direction of rotation in operation and the later teaches the use of an insert to change the diameter of a beverage container holder opening. Even if these two references were combinable they still fail to disclose, teach, or fairly suggest how to provide a device-mounting apparatus capable of mounting specifically designed brackets allowing the securing of specific devices within a vehicle compartment as claimed in Applicants' present invention.

Furthermore, the Bieck et al. (US 5,839,711) reference is not combinable with the McElfish et al. (US 4,568,117) reference as McElfish et al. (US 4,568,117) teaches the use of a triangular device having cavities within said triangular device requiring a locking mechanism and a turning mechanism as well as a specific direction of rotation in operation and Bieck et al. (US 5,839,711) teaches the use of an insert to change the

Appl. No.: 10/709,404
Amdt. Dated: 12/19/2006
Reply to Office action of: 09/29/2006

diameter of a beverage container holder opening and uses spring biases fingers to vary the size of the beverage container holding diameter. Thus, Bieck et al. (US 5,839,711) may be an improvement on the Ney et al. (US 5,879,041) reference but this does not provide it with the required impetus to modify the McElfish et al. (US 4,568,117) reference to arrive at Applicants' claimed invention. Even if these three references were combinable they still fail to disclose, teach, or fairly suggest how to provide a device-mounting apparatus capable of mounting specifically designed brackets allowing the securing of specific devices within a vehicle compartment as claimed in Applicants' present invention.

Clearly, when viewed in this light no combination of the McElfish et al. (US 4,568,117), Ney et al. (US 5,879,041), and the Bieck et al. (US 5,839,711) references disclose, teach, or fairly suggest Applicant's claimed invention.

Claims 4 – 5, and 12 – 13 were rejected under 35 U.S.C. 103(a) as being unpatentable over McElfish et al. in view of Ney et al., as applied to claims 1 and 10 above, and further in view of Wildey et al. (US 5,860,630). Specifically, the Examiner states:

The modified McElfish device discloses the claimed invention but does not specifically state the material being a plastic. However, Wildey et al. teaches a container recesses into a vehicle console (18) with various mounting cavities, the device being made from ABS plastic (col. 4 lines 4). Therefore it would have been obvious to one skilled in the art at the time of invention to make the mounting device of McElfish from ABS plastic, effectively satisfying the claims.

Applicant respectfully traverses these rejections. The key to Applicant's invention is, as mentioned above, providing a device-mounting apparatus that is configured to accept a variety of different mounting brackets that in turn are designed to hold or mount specific items securely within a vehicle interior compartment. Examples being a cell phone saddle for securely holding a cell phone (see Figures 1 and 6), and the cargo net hook loop 13 and the cell phone holder 6 of Figure 7. Furthermore, the claimed invention may be used in a horizontal, vertical, or sloped orientation interchangeably when in the "use" position. Also, the claimed invention does not require special direction of rotation

Appl. No.: 10/709,404
Amdt. Dated: 12/19/2006
Reply to Office action of: 09/29/2006

to prevent held articles from falling out of the device, nor spring biased mounting pins and locking devices to operate properly.

A fair reading of the McElfish et al. (US 4,568,117) reference discloses a device having a coin holder and a cup holder located within the triangular body of the device. The reference also teaches that the device must be rotated in specific direction for specific functional use to prevent loss of the items held within the device body cavities. Additionally, because one of the items to be inserted into the device may be a beverage container the device must have a locking system to prevent rotation when such a container is inserted to prevent spillage. This beverage container holding function also mandates that the device be used on a horizontal axis only.

There is nothing in the McElfish et al. (US 4,568,117) reference which discloses, teaches or suggests to one skilled in the art how to modify the reference to provide for use in a vertical or sloped orientation or how to modify the interior cavities of the reference to accept a variety of brackets to hold specific items securely, such as for example, cell phones or cargo net hooks. Further, there is no disclosure, teaching, or fair suggestion on how to eliminate the critical elements of the locking means, the rotational wheel means, or the need for specific direction of rotation.

A fair reading of the Ney et al. (US 5,879,041) reference discloses a cup holder insert that may be used to provide for holding beverage containers of sizes smaller than the originally provided beverage container holding cavities in a vehicle passenger compartment. This cup holder insert provides a plurality of retaining finger members to position the cup holder insert in the larger diameter cavity of the vehicle. This reference disclosure requires that the device be used in a horizontal orientation only as it is designed specifically for beverage containers and has no provision to hold any item in a non-horizontal position or to even stay mounted in the vehicle cavity in any non-horizontal position.

There is nothing in the Ney et al. (US 5,879,041) reference which discloses, teaches or suggests to one skilled in the art how to modify the reference to provide different brackets to securely mount various devices such as DVD players for example. There is nothing to suggest on one skilled in the art how to overcome the limitations of the McElfish et al. (US 4,568,117) reference to arrive at Applicants' claimed invention.

Appl. No.: 10/709,404
Amdt. Dated: 12/19/2006
Reply to Office action of: 09/29/2006

In fact, without first having knowledge of the claimed invention one skilled in the art would not even have the necessary impetus to combine these references.

A fair reading of the Wildey et al. (US 5,860,630) reference discloses a two part beverage container bracket where each part must be positioned horizontally and the two parts must be on the same vertical axis to function in combination. The fact that this reference specifically teaches the use of ABS plastic does not overcome the lack the required impetus to combine the McElfish et al. (US 4,568,117) reference and Ney et al. (US 5,879,041) reference together or with the Wildey et al. (US 5,860,630) reference. In fact other than mentioning the use of ABS this reference teaches away from the McElfish reference.

There is nothing in the Wildey et al. (US 5,860,630) reference which discloses, teaches or suggests to one skilled in the art how to modify the reference to provide for use in a vertical or sloped orientation of each part of this reference or how to modify the interior cavities of the reference to accept a variety of brackets to hold specific items securely, such as for example, cell phones or cargo net hooks. Further, there is no disclosure, teaching, or fair suggestion on how to eliminate the critical elements of the locking means, the rotational wheel means, or the need for specific direction of rotation. This modification of the Ney et al. (5,879,041) reference does not provide for an alternative sizing function of the beverage holder insert does not add anything to provide the required impetus to modify either McElfish et al. (US 4,568,117) or Ney et al. (US 5,879,041) to arrive at Applicants' claimed invention.

Clearly, when viewed in this light the McElfish et al. (US 4,568,117), Ney et al. (US 5,879,041), and Wildey et al. (US 5,860,630) references do not disclose, teach, or suggest the use of a triangular device having cavities within said triangular device requiring a locking mechanism and a turning mechanism as well as a specific direction of rotation in operation and the latter teaches the use of an insert to change the diameter of a beverage container holder opening. Even if these two references were combinable they still fail to disclose, teach, or fairly suggest how to provide a device-mounting apparatus capable of mounting specifically designed brackets allowing the securing of specific devices within a vehicle compartment as claimed in Applicants' present invention.

Furthermore, the Wildey et al. (US 5,860,630) reference is not combinable with the McElfish et al. (US 4,568,117) reference as the former teaches the use of the use of a

Appl. No.: 10/709,404
Amdt. Dated: 12/19/2006
Reply to Office action of: 09/29/2006

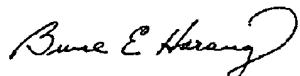
triangular device having cavities within said triangular device requiring a locking mechanism and a turning mechanism as well as a specific direction of rotation in operation and the later teaches the use of ABS plastic in a completely different type of device which teaches directly away from the device of McElfish et al. Even if these three references were combinable they still fail to disclose, teach, or fairly suggest how to provide a device-mounting apparatus capable of mounting specifically designed brackets allowing the securing of specific devices within a vehicle compartment as claimed in Applicants' present invention.

Clearly, when viewed in this light no combination of the McElfish et al. (US 4,568,117), Ney et al. (US 5,879,041), and the Wildey et al. (US 5,860,630) references disclose, teach, or fairly suggest Applicant's claimed invention.

Applicant notes the references cited by the Examiner but not used as a basis of rejection. In view of these references not being a basis of rejection, Applicant makes no further comment about them.

In view of the remarks herein, and the amendments hereto, it is submitted that this application is in condition for allowance, and such action and issuance of a timely Notice of Allowance is respectfully solicited.

Respectfully submitted,



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